

1
2
3
4
5 IN RE: UBER TECHNOLOGIES, INC.,
6 PASSENGER SEXUAL ASSAULT
7 LITIGATION

8 Case No. [23-md-03084-CRB](#)
9

10 This Order Relates To:
11 ALL ACTIONS

12

13

14

15 **ORDER GRANTING IN PART AND**
16 **DENYING IN PART MOTION TO**
17 **CERTIFY INTERLOCUTORY**
18 **APPEAL**

19 Re: Dkt. No. 614

20 On February 9, 2024, the Court filed a motion in which Uber argued, in relevant
21 part, that its Terms of Use Agreement barred some (and possibly most) plaintiffs from
22 “participating” in coordinated or consolidation proceedings, including this MDL. Uber
23 requested that the Court dismiss or transfer cases brought by plaintiffs who had assented to
24 its “Non-Consolidation Clause.” On May 20, the Court denied the motion. See Pretrial
25 Order No. 15 (dkt. 543).

26 On June 7, Uber filed a motion to certify an interlocutory appeal of that order, and
27 plaintiffs filed an opposition on June 21. Uber asks that the Court stay MDL proceedings
28 pending its appeal.

29 Uber’s motion is granted in part and denied in part. The primary question
30 addressed in Pretrial Order No. 15—that is, whether Uber’s “Non-Consolidation Clause”
31 must be enforced by an MDL transferee court through the dismissal or transfer of cases
32 coordinated with the MDL proceedings—meets the criteria for interlocutory appeal under
33 U.S.C. § 1292(b). That is a question of law, and it is a “controlling” question: it could

1 materially affect the outcome of this litigation because it could dictate whether many
2 plaintiffs' claims are adjudicated in this MDL or whether they are adjudicated elsewhere.
3 There is substantial ground for difference in opinion on this issue, which is a matter of first
4 impression not governed by any explicit statutory command or controlling precedent. And
5 an immediate appeal would materially advance the ultimate termination of this litigation.

6 Uber's motion is denied insofar as it seeks a stay of MDL proceedings pending
7 decision on its appeal. A stay is unwarranted for the reasons given in the order denying
8 Uber's previous motion for a stay. See Pretrial Order No. 7 (dkt. 255).

9

10 **IT IS SO ORDERED.**

11 Dated: June 25, 2024



12 CHARLES R. BREYER
13 United States District Judge